IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
SPECIAL CIVIL APPLICATION No 5379 of 2000
with
SPECIAL CIVIL APPLICATION No 5380 of 2000
with
Special Civil Application No.5381 of 2000
with
Special Civil Application No.5382 of 2000
with
Special Civil Application No.5383 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgement? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

REKHA PRADIPBHAI SEJU
Versus
DIRECTOR OF MEDICAL SERVICES

Appearance:
MR MB GANDHI for Petitioner in all matters.
Mr.V.M. Pancholi, Assistant GOVERNMENT PLEADER,
for Respondent Nos. 1 and 2 in all matters.
MR SK PATEL for Respondent No. 3 in all matters.

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 09/04/2001

ORAL JUDGEMENT

1. Rule. Mr.V.M. Pancholi, AGP, waives service of rule on behalf of the respondents. With the consent of parties, the matters are taken up for final hearing today.

2. The petitioners in these petitions have filed the petitions, apprehending termination of their services. The petitioners have been appointed as Medical Officer, Class II and they have been transferred from one place to another after their initial appointment. As per the appointment order, the appointment of the petitioners is on ad hoc basis and, initially, it was for one year, or till employee from the reserved category is available through G.P.S.C. whichever is earlier. The petitioners have been continued from time to time since considerable time on such ad hoc basis. The petitioners have, therefore, filed these petitions with a prayer that their services should be regularised and that since they are appointed on ad hoc basis, their services should not be terminated by appointing other ad hoc appointees unless and until the GPSC selected candidate is available for the post in question. The petitioners have also prayed for interim relief against termination of their services and they have been protected by this Court by granting order of status quo.

3. It is submitted by Mr.Gandhi that some of the petitioners have also appeared before the G.P.S.C. for getting regular selection on the post in question. He submitted that, in any case, since they are serving for a considerable period, their services may not be terminated till G.P.S.C. selected candidate is available for the post in question.

4. Against the aforesaid argument, Mr.V.M. Pancholi, learned AGP, argued that the petitioners' appointment is purely ad hoc for a period of one year or till GPSC selected candidate is available, whichever is earlier, and according to him, therefore, the petitioners have no right to continue on the post in question. It is pointed out that ad hoc appointment was given, as no GPSC candidates were readily available and, therefore, in order to see that the medical service is not affected, such ad hoc appointments are given till the candidate selected though GPSC is available.

5. Considering the facts and circumstances of the case and especially considering the fact that the

petitioners are serving on ad hoc basis for a considerable period, it would be just and proper to direct the Department not to terminate the services of the petitioners till the post in question is filled in through a candidate who is selected by G.P.S.C. In the facts and circumstances of the case, therefore, it is directed that the services of the petitioners may not be terminated till G.P.S.C. selected candidate is available for the post in question. If G.P.S.C. selected candidate is available, naturally, the petitioners will not have any right to continue on the post in question. It is also further directed that as and when the G.P.S.C. selected candidate is available, the Department may terminate the services of the petitioners on the basis of "Last Come First Go" principle so that at the time when occasion for terminating the services of the concerned petitioner arises, the services of the juniormost may be required to be terminated first. It is also clarified that if any of the petitioners is selected through GPSC, his case for regular appointment may also be considered in accordance with law. So far as the prayer about regularisation of the services of the petitioners is concerned, the same is not required to be considered at this stage as the petitioners are serving only on ad hoc basis and they are not in regular appointment of the Department. If any of the petitioners is regularly selected, the said question can be agitated by such petitioner at the relevant time, but the said prayer at this stage is absolutely premature. It is, therefore, not necessary to decide the said question and, in fact, the said question cannot be even decided in the present petitions. In the present petitions, the Court has considered only the question of continuing the petitioners till regular G.P.S.C. selected candidate is available for the post in question and till such candidate is available, the petitioners' services may not be terminated by the Department. These petitions are, therefore, allowed only to the aforeaid extent, as indicated in this order. Rule is made absolute to the aforeaid extent with no order as to costs.

9th April, 2001 (P.B. Majmudar, J.)

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(apj)